

## **Municipal Civil Infraction Proceedings**

### **Advantages**

Does not give the violator a criminal record.

Less expensive for the Township.

Lower burden of proof; "preponderance of evidence".

MCI proceedings conclude faster than criminal proceedings.

Broader array of available remedies.

No jury.

No discovery process.

Option to serve violator with a "notice" or with a "citation"

Option for internal resolution through a Violations Bureau if "notice" served.

(violator may admit responsibility and pay fine directly to Township)

Option of an informal hearing or a formal hearing if "citation" served.

Violator also has options of:

a) admitting responsibility without explanation

b) admitting responsibility with explanation (may allow reduced penalties)

c) denying responsibility and demanding a hearing, formal or informal.

d) having a formal hearing if the informal hearing does not resolve the citation.

Township retains all or most of fine amounts, depending on method of resolution.

Court may order violator to pay fees and costs.

Court can award injunctive relief.

Court is not required or authorized to appoint free legal counsel.

No attorneys, for either side, present at an informal hearing.

(attorneys do appear, for both sides, at a formal hearing)

Township can prevail by default if violator fails to appear.

### **Disadvantages**

There may be a "learning curve" for the township.

Some District courts are unfamiliar or uncomfortable with MCIs.

Some violators do not take MCI as seriously as they do criminal proceedings.

Care must be taken with terminology (i.e., "notice" vs "citation", etc.)

Requires the drafting and adoption of several ordinances.

Requires the amendment of all ordinances to which MCI proceedings may be applied.

## **Criminal Misdemeanor Proceedings**

### **Advantages**

Conviction results in a criminal record.

Conviction carries possibility of jail time.

Criminal prosecution may be scarier to some, can bring relatively severe penalties (thus in some instances may be more effective as a deterrent)

Supervised probation may be ordered.

Jury duty involves community participation in ordinance enforcement.

### **Disadvantages**

Violators may vigorously contest criminal prosecution.

More expensive than MCI proceedings.

Defendants have constitutional right to trial by jury (thus, legal fees).

“Discovery” process usually involved (more legal fees).

Township attorney must be involved at every step in the process.

Limited remedies available to the Township.

Defendants may take the 5<sup>th</sup> Amendment.

Court may appoint free legal counsel for the defendant.

Burden of proof is high; “beyond a reasonable doubt”.

Juries may refuse to convict an ordinance violator (“jury nullification”).

Jury trials provide a public soapbox to the defendant.